

REMARKS

In the office action dated 01/09/07, the Examiner rejected the claims as anticipated by US Patent Nos. 2,920,920 to Couse and 4,545,171 to Colvin, or as an obvious combination of these patent and US 5,265,394 to Gardner. For the reasons which follow, applicant requests reconsideration of these rejections.

1. Objection to the Drawings.

The office action objected to the drawings as lacking the crane recited in the claims. However, applicant points out that Figures 3D and 4 both show the crane 702 which is described in paragraph 54 of the published application. If this does not address the Examiner's objection, applicant requests the Examiner contact the undersigned in order to clarify the nature of the objection.

2. §112 Rejections of the Claims.

Applicant has amended claims 1, 10, and 15 to address the §112 rejections. If these amendments do not address the Examiner's rejections, applicant requests the Examiner contact the undersigned.

3. §102 Rejections Over Couse and Colvin.

The office action rejected claims 1-4 and 6-9 as being anticipated by the Couse patent, stating that the Couse patent discloses a folded building inside a shipping container and designed to be removed vertically from the container. The office action did not cite any specific language in Couse, but simply referenced Couse figures 1, 6, and 8. Applicant respectfully submits that careful reading of Couse clearly shows that Couse does not remove a folded building from a container.

Couse discloses a folding structure but does not disclose a separate container from which the structure is removed as recited in claim 1. First, it is questionable whether Couse even discloses a structure in a container. Figure 1 illustrates how the Couse structure uses the short roof sections 26 and the long roof sections 27 to form the tops and sides of the structure when it is in a folded configuration. It is unreasonable to interpret Couse elements 26 and 27 as forming

a “container” since these elements form the roof of the Couse structure when it is unfolded or deployed.

Second, even if Couse is presumed to have a container, there is no reasonable interpretation of Couse which discloses a building frame assemblage **removed from** the container. When the Couse structure is in the unfolded configuration, it remains entirely within the short roof sections 26 and the long roof sections 27. Even if Couse elements 26 and 27 are considered a “container,” no part of the Couse structure has in any way been removed from roof sections 26 and 27 (or any other structure that may be considered a “container”). This is particularly true considering claim 1 recites “vertically” removing the building frame assemblage. Since the examiner must be considering roof sections 26 and 27 as the top of the container, it is clear that no element in Couse extends vertically beyond the roof sections 26 and 27 (the roof is the uppermost surface in a building). Therefore, no element of the Couse structure can be considered vertically removed from the Couse “container” since all elements in the Couse structure necessarily remain below the Couse roof segments. Couse clearly fails to disclose removing (vertically or in any other manner) a folded building frame assemblage from a container.

Even though applicant does not believe Couse can be interpreted as anticipating claim 1, applicant has amended claim 2 to more clearly recite constructing the separate assemblages at a building site separate from said shipping container. If Couse is interpreted to include a “shipping container”, any assemblages found in Couse are constructed at or within the Couse container. In no conceivable manner is the Couse construction site separate from the Couse shipping container. Therefore, Couse clearly cannot anticipate claim 2.

This concept is also expressed in amended claim 6 which recites positioning the frame assemblage outside of the container. Furthermore, claim 6 now recites that the building frame assemblage is unfolded after it has been removed from the container. Again, Couse cannot meet this limitation because any Couse elements which may be considered as unfolding do so while within the

“container,” i.e., the Couse roof elements. No Couse element could possibly unfold “after” being removed from under the roof elements.

The same conclusion applies to the Colvin patent and the rejection of claims 15-20. Claim 15 recites frame assemblages arranged in order in which they removed from the shipping container. Again, the Examiner did not identify the elements of Colvin he considered to be the shipping container, but simply referenced figure 1 of Colvin. Applicant presumes that the Examiner considers Colvin roof sections 50, 51, 52, and 53 to correspond to the container recited in claim 15. As shown in Figure 7 of Colven, these sections unfold to form the roof of the Colvin structure. No frame assemblages are removed out of the roof sections 50, 51, 52, and 53, therefore no frame assemblages are removed from the Colven “container.”

3. §103 Rejections Over Couse and Couse combined with Gardner.

The Examiner rejected claim 5 as obvious over Couse alone. The Examiner stated it would be obvious to “use a second unit” in order to “house a larger number of people than one structure has the capacity to hold.” However, applicant points out that claim 5 actually refers to a “second story assemblage.” It is abundantly clear that a “second story” is a second level of a building which rests on a first story or level of the same building. Couse in no conceivable manner discloses first story and second story structures or suggests the Couse device could possibly be modified to have a second story structure. First, the Couse structures are designed to have sloping roofs. Therefore, a Couse structure could never act as a first story base for a second story structure. Second, the Couse structures are designed to have wheels so the structure can easily be transported. Those wheels would need to be removed in order for a Couse structure to act as a second story. Removing the wheels from a Couse structure would of course render Couse unsuitable for its intended purpose. The MPEP clearly states that such a modification is an improper basis for an obviousness rejection. There is no question that the rejection of claim 5 should be withdrawn.

The Examiner also rejected claim 11 (whose limitation is now in claim 10) as obvious over Couse in view of US Patent No. 5,265,394 to Gardner. The Examiner asserted it would be obvious

to use the Gardner crane for deploying the structure (presumably the Couse structure) in situations where personnel need additional help due to weight and size of the structure.

First, claim 10 has been amended to recite transferring the building frame assemblage to a building site separate from the container. Therefore, claim 10 is distinguishable over Couse for the reasons given above regardless of whether a crane is used. Second, since claim 10 now recites removing the building frame assemblage from a shipping container using a crane, this is completely inapplicable to any method which could be used with Couse. As discussed above, Couse's roof sections 26 and 27 must be what the Examiner considers the claimed container. If this is the case, how can a crane be used to remove some internal structure of Couse out from under the roof of Couse? The only way a crane could be used with Couse to meet the limitations of amended claim 10 is for the crane to smash through the roof sections of Couse and forcibly rip out some internal framing of Couse.

It may well be obvious to use a crane to pick up the entire Couse structure, but this would not meet the limitations of claim 10 because the "container" of Couse would also be picked up. Thus, the crane would not be removing the building frame assemblage from a shipping container as required by claim 10. There is not reasonable manner to employ a crane with the Couse structure in order to carry out the steps recited in amended claim 10. The rejection should be withdrawn.

Respectfully submitted,

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